

Remarks/Arguments:

Applicants respectfully submit this RCE and Response to the Decision on Appeal 2007-3212 rendered April 30, 2008. The Decision reversed the Examiner's rejections of Claims 16, 20, and 26-28 under 35 U.S.C. §102(e) as being anticipated by Brown, reversed the Examiner's rejection of Claims 16, 26, and 27 under 35 U.S.C. §102(b) as being anticipated by Monaco; affirmed the Examiner's rejection of Claims 16, 20, and 26-28 under 35 U.S.C. §102(b) as being anticipated by the Yan; and affirmed the Examiner's rejection of Claims 16, 26, and 27 under 35 U.S.C. §102(b) as being anticipated by Buirge. No other basis of rejection was stated of record.

Summary of Amendments

Applicant has amended Claim 16 to introduce the material properties of the metal material used for the first and second layers, which are yielded by vacuum depositing the metals, as taught by U.S. Patent Application Serial No. 09/443,929, filed November 19, 1999, now issued as U.S. Patent No. 6,379,383, which was expressly incorporated by reference at p. 11, lines 7-8 of the specification as originally filed. New claims 30-37 further claim material properties of the metal first and second layers as are taught in the incorporated patent application. The present amendments, therefore, do not add new matter to the application. Applicant respectfully submits that the newly submitted Claims define patentable subject matter over the prior art of record in this application.

Applicant respectfully submits that the Yan and Buirge references, relied upon by the Examiner to reject the finally rejected claims, as upheld by the Board of Patent Appeals and Interferences, do not teach metals having microstructural properties characteristic of a vacuum deposited metal, nor do they teach an intermediate void space that is completely enclosed by between the first and second layers and which opens only through the plurality of pores.

Conclusion

Accordingly, Applicant submits that the pending claims are patentably distinct from and over the art cited and of record. Favorable reconsideration of the rejection of the pending claims is solicited.

This Response and Amendment is being filed with a Request for Continuing Examination ("RCE") under 37 CFR § 1.114. While no additional fees other than those stated in the Transmittal Letter are believed to be required in connection with the filing of this amendment, the Director is hereby authorized to deduct any such fees from Deposit Account No. 18-2000 of which the undersigned is an authorized signatory.

Should the Examiner find that there are any outstanding matters, which are susceptible of resolution by telephone interview; the Examiner is invited to telephone the undersigned to discuss the same.

Respectfully submitted,



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